

## **REMARKS**

### **Introduction**

Claims 1 and 3-14 are pending, of which claims 1 and 11 are independent.

Claims 1, 4-6, 8, 10-12 and 14 have been amended to correct informalities in the claim language and to more clearly define the claimed subject matter. Support for the amendments for claims 1 and 11 is found, for example, at page 20, lines 7-14 of the present specification. Claim 15 has been cancelled without prejudice. No new matter has been added.

### **Claim Rejection - 35 U.S.C. § 103**

Claims 1, 5-6 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peiffer (USP 7,007,092) in view of Klein (USP 6,917,971). Claims 3, 10 and 13-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peiffer in view of Klein, in further view of Agrawal (USP 6,606,661). Claims 4, 7-9 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Peiffer in view of Klein, and further in view of Miyamoto (USP 6,101,542). Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Peiffer in view of Lee (USP Publication Number 2003/0046383). Applicants respectfully traverse these rejections for at least the following reasons.

Applicants submit that amended claims 1 and 11 now recite, among other features, that “*the unit for measuring reception performance measures the reception performance of the client apparatus at intervals of time,*” and “*the unit for controlling changes the number of client apparatuses simultaneously connected to the server apparatus, dynamically.*” According to the claimed subject matter, the traffic control apparatus can measure the time for receiving the response from the server apparatus by the one client apparatus.

Turning to the cited references, as the Examiner concedes, Peiffer fails to disclose the claimed unit for measuring reception performance. Further, in Peiffer, the number of simultaneously connected clients to the server is controlled based on the server performance. Thus, Peiffer also fails to disclose the claimed unit for controlling the number of client apparatuses which changes the number of client apparatuses simultaneously connected to the server apparatus in accordance with *the reception performance of the client* apparatus, dynamically.

Klein appears to disclose a client which measures a total client segment time. However, total response time agent 114 of Klein is disposed within client 104 (see, FIG. 2 of Klein), but not disposed at a traffic control apparatus. Further, response time agent 114 of Klein does not measure the reception performance of the client apparatus at intervals of time.

Hence, Peiffer and Klein together would not lead the person of skill in the art to construct a traffic control apparatus to include a unit for measuring reception performance for a client at time interval, and a control unit responsive to such client reception performance to dynamically change the number of simultaneously connected client apparatuses. Peiffer and Klein therefore do not lead to any combination that would meet all of the requirements of either claim 1 or claim 11. The independent claims therefore patentably distinguish over Peiffer and Klein, and the dependent claims should distinguish in a similar manner.

The additional cited references do not teach or suggest the above identified elements of claims 1 and 11 missing from Peiffer and Klein. Therefore, any combination of Peiffer and Klein with Agrawal, Miyamoto and/or Lee would still fail to disclose the claimed features, and it would not have been obvious to add these features to any such combination.

As such, it is clear that none of the cited references, taken alone or in any combination thereof, renders claims 1 and 11 or any claim dependent thereon obvious. Thus, Applicants respectfully request that the Examiner withdraw the rejections of claims 1 and 3-14 under 35 U.S.C. § 103(a).

**CONCLUSION**

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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